

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA

Plaintiffs,

VS.

ALEXANDER JOSEPH RADFORD

Defendant,

3:14-CR-49-MMD-VPC

MINUTES OF THE COURT

Dated: December 4, 2014

PRESENT:

THE HONORABLE **MIRANDA M. DU, U.S. DISTRICT JUDGE**

DEPUTY CLERK: PEGGIE VANNOZZI COURT REPORTER: KATHY FRENCH

PRESENT FOR PLAINTIFFS: MEGAN RACHOW

PRESENT FOR DEFENDANT: LAUREN GORMAN AND BIRAY DOGAN

IN COURT PROCEEDINGS – JURY TRIAL – DAY 2

Proceedings begin at 9:03 AM. The defendant is present, in custody. Case agent Norm Bergeron is present. Ms. Rachow is assisted by Legal Assistant Elizabeth Pantner. The jury is not present.

The Court inquires whether the Defendant has any objection to the Government's proposed forfeiture instruction (#59.) Ms. Gorman indicates that the instruction may not be needed if counsel can stipulate to the contents of the instruction.

The Court indicates for the record that Counsel were given the alphabetical list of the proposed jurors on December 2, 2014.

The Court has received a note from juror number 13. After reviewing the note, Counsel indicate they have no additional questions for the juror and that neither challenge the juror for cause. The Court may ask the juror additional questions at the lunch hour.

The Court hears argument on Government's Motion in Limine (#54). The Court will reserve its ruling and may convene an ex parte hearing with Defense counsel.

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The Court advises counsel that it will take a recess between opening statements and the testimony of the first witness so that the in custody witness can be brought into the courtroom without the jury present.

The jury enters at 9:22 AM. Ms. Rachow and Ms. Gorman present opening statements.

The jury exits at 9:40 AM and reenters at 9:42 AM.

Kassandry Thomas is sworn to testify. Ms. Rachow and Mr. Dogan examine the witness. Defendant's exhibits 504 and 505 are marked.

The jury exits at 10:09 AM. Mr. Dogan asks that Ms. Thomas be kept in custody until after Officer Miller testifies.

The Court will convene an ex parte hearing with Defense counsel. The courtroom is cleared. The ex parte hearing (from 10:10 AM to 10:20 AM) is sealed.

Proceedings recess from 10:20 AM to 10:32 AM. The defendant is present. The Jury is not present. The Court advises that it will allow Defendant to cross examine Officer Miller to a limited extent if the evidence matches Defendant's proffer. The Court will allow Defendant to recall Officer Miller.

The jury enters at 10:38 AM.

Richard Miller is sworn to testify. Ms. Rachow examines the witness. Government's exhibits 1 and 2 are marked and admitted. Ms. Gorman examines the witness. Defendant's exhibit 500 is marked and admitted. Defendant's exhibits 521 and 522 are marked. Ms. Rachow and Ms. Gorman conduct further examination. The witness is excused.

Christopher Johnson is sworn to testify. Ms. Rachow and Mr. Dogan examine the witness. The witness is excused.

The Court admonishes the jury. The jury exits at 11:45 AM.

The Court asks Counsel if they have any additional questions for Juror #13. The Court calls Juror #13 back into the courtroom and canvasses the Juror with regard to his note. The Court finds that that Juror #13 can be an impartial juror.

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The Court and counsel discuss issues pertaining to Richard Miller's medical situation and his medical records.

Mr. Dogan asks the Court to give the jury a limiting instruction with regard to Officer Johnson's testimony on Defendant's silence. The Court will advise counsel after the lunch recess whether it will give a limiting instruction.

Proceedings recess from 11:54 PM to 1:08 PM. The defendant is present. The jury is not present. The Court issues a ruling granting in part and denying in part Government's Motion in Limine (#54.) The Court will allow limited cross examination of Richard Miller on the items contained in his personnel report. The Court will not allow examination with regard to Officer Miller's medical condition. The Court may admit Defendant's 522 if Defense counsel can authenticate it through witness Molly Gallina.

The Court addresses Mr. Dogan's request for a limiting instruction.

Ms. Rachow advises that the government will call one more witness and read a stipulation into the record. Ms. Gorman advises that Defendant will call 2 witnesses.

The jury enters at 1:22 PM.

Lavon Robert Cuyler is sworn to testify. Ms. Rachow and Mr. Dogan examine the witness. The witness is excused.

Government's exhibit 3 is marked, admitted and read into the record.

The jury exits at 1:40 PM.

Ms. Gorman makes Defendant's Rule 29 motion. The Court hears argument. The Court denies Defendant's Rule 29 motion.

Defendant is sworn. The Court canvasses the defendant on his rights. Defendant waives his right to testify. The Court makes findings for the record.

The jury enters at 1:49 PM.

Susan Snyder is sworn to testify. Ms. Gorman and Ms. Rachow examine the witness. The witness is excused.

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Molly Louise Gallina is sworn to testify. Ms. Gorman examines the witness. Defendant's exhibits 521 and 522 are admitted. Ms. Rachow and Ms. Gorman examine the witness. The witness is excused.

Richard Miller is recalled. Ms. Gorman and Ms. Rachow examine the witness. The witness is excused.

Defense rests.

Scott Shaw is sworn as a rebuttal witness. Ms. Rachow and Mr. Dogan examine the witness. The witness is excused.

The Government rests. Defense rests.

The jury exits at 2:49 PM. The Court settles jury instructions. Ms. Gorman renews Defendant's Rule 29 motion. The Court hears argument and denies the Renewed Motion.

Proceedings recess from 2:52 PM to 3:17 PM. The jury is not present. Defendant is present. The Court advises counsel that it will not give an instruction on the right to remain silent for the reasons given in open court.

The jury enters at 3:22 PM. Instructions are read. Ms. Rachow and Mr. Dogan present closing arguments.

The bailiff is sworn. The jury retires to deliberate at 4:25 PM.

Proceedings reconvene at 4:45 PM. Defendant is present. The jurors are present. The jury has reached a verdict. The verdict is read. Defendant ALEXANDER JOSEPH RADFORD is found guilty of the offense charged in Count 1 of the indictment. The jury is not polled.

The Court reads the Special Jury Instructions for forfeiture. The jury retires to deliberate at 4:52 PM.

Sentencing is set for March 30, 2015 at 11:00 AM.

The jury returns at 5:00 PM. The Special Verdict is read. The jury finds that the Defendant used or possessed the Iver Johnson .22 caliber revolver and ammunition in the commission of the offense. The Court thanks and excuses the jury.

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The defendant is remanded to the custody of the US Marshal.

Proceedings adjourn at 5:05 PM.

LANCE S. WILSON, CLERK
U.S. DISTRICT COURT

/S/ Peggie Vannozzi
Deputy Clerk